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*WESTERN DIGITAL
TECHNOLOGIES, INC.*

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **SOUTHERN DIVISION**

13 ||| LONGITUDE LICENSING LIMITED.

CASE NO. 8:23-cv-00039-JWH-DFM

STIPULATED PROTECTIVE ORDER

14 Plaintiff, Counterclaim-
15 Defendant, and Counterclaim
Plaintiff,

16
17 V.
AMAZON.COM, INC.

17 | AMAZON

AMAZON.COM, INC.,

Defendant,

19 WESTERN DIGITAL
20 TECHNOLOGIES, INC.,
21 Intervenor-Defendant,
22 Counterclaim Plaintiff and
 Counterclaim Defendant.

24 | AND RELATED CLAIMS.

1 It is hereby stipulated by the parties that the Court enter the following
2 Order protecting confidentiality of both party and non-party information to be
3 disclosed in these litigations.

4 1. **STATEMENT OF GOOD CAUSE AND PURPOSE**

5 1.1 Statement of Good Cause: Disclosure and discovery activity in this
6 action are likely to involve production of confidential, proprietary, or private
7 information for which special protection from public disclosure and from use for
8 any purpose other than prosecuting this litigation is warranted. Specific examples
9 of valuable information that is not publicly known include: (1) confidential
10 licenses, licensing terms, and other licensing strategies and related information; (2)
11 confidential sales, pricing, profit, and other financial information; (3) confidential
12 business, marketing, and strategic plans and forecasts; (4) confidential technical
13 information, including design, engineering and development documents; (5)
14 employee personal information, to the extent such information is produced and not
15 redacted; (6) trade secrets; (7) schematics, Hardware Description Language (HDL)
16 or Register Transfer Level (RTL) files or computer code and associated comments
17 and revision histories; and (8) other information that, if known, would cause
18 competitive harm to the producing party. The parties believe that good cause
19 exists to protect this information produced in discovery because disclosure of such
20 information would or could, among other things, allow competitors to gain
21 competitive advantage based on the confidential, proprietary, or public
22 information.

23 1.2 Purpose: The purpose of this Order is to protect information produced
24 in discovery from public disclosure, regulate its use in discovery (such as
25 depositions), and require parties receiving information designated under this Order
26 to lodge or file any such material pursuant to Civil Local Rule 79-5 in the event
27 that material is used in court filings or trial. This Order does not confer blanket
28 protections on all disclosures or responses to discovery or relieve any party from

1 its burden of showing good cause to seal information filed with or submitted to the
2 Court in this action. As set forth in Section 14.3 below, this Protective Order does
3 by itself not entitle the Parties to file confidential information under seal; Civil
4 Local Rule 79-5 sets forth the procedures that must be followed and the standards
5 that will be applied when a party seeks permission from the court to file material
6 under seal.

7 **2. DEFINITIONS**

8 **2.1 Challenging Party:** a Party or Non-Party that challenges the
9 designation of information or items under this Order.

10 **2.2 “CONFIDENTIAL” Information or Items:** information (regardless of
11 how it is generated, stored or maintained) or tangible things that constitute or
12 include information that is not publicly known and that cannot be ascertained from
13 an inspection of publicly available documents.

14 **2.3 Counsel (without qualifier):** Outside Counsel of Record and House
15 Counsel (as well as their respective support staff).

16 **2.4 Designating Party:** a Party or Non-Party that designates information or
17 items that it produces in disclosures or in responses to discovery as
18 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
19 ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

20 **2.5 Disclosure or Discovery Material:** all items or information, regardless
21 of the medium or manner in which it is generated, stored, or maintained (including,
22 among other things, testimony, transcripts, and tangible things), that are produced,
23 disclosed or generated in disclosures, responses to discovery, or depositions in this
24 matter.

25 **2.6 Expert:** a person who (1) has been retained by a Party or its counsel to
26 serve as an expert witness or as a consultant in this action, (2) is not a past or
27 current employee of a Party or of a Party’s competitor, and (3) at the time of
28 retention, is not anticipated to become an employee of a Party or of a Party’s

1 competitor.

2 2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"

3 Information or Items: extremely sensitive "Confidential Information or Items,"
4 disclosure of which to another Party or Non-Party, even under the restricted terms
5 and conditions applicable to material designated "CONFIDENTIAL," would not
6 adequately protect the interests of the Designating Party. Examples of HIGHLY
7 CONFIDENTIAL – ATTORNEYS' EYES ONLY material include, but are not
8 limited to, the following:

- 9 A. Confidential licenses, licensing terms, and other licensing
10 strategies and related information;
- 11 B. Confidential sales, pricing, profit, and other financial
12 information;
- 13 C. Confidential business, marketing, and strategic plans and
14 forecasts;
- 15 D. Confidential technical information, including design,
16 engineering and development documents;
- 17 E. Employee personal information, to the extent such
18 information is produced and not redacted;
- 19 F. Trade secrets; and
- 20 G. Any other type or category of information which a
21 Producing Party believes must be held in highest level of
22 confidence because it could otherwise create a competitive
23 disadvantage.

24 2.8 "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or

25 Items: "Confidential Information or Items" representing schematics, Hardware
26 Description Language (HDL) or Register Transfer Level (RTL) files or computer
27 code and associated comments and revision histories, the disclosure of which the
28 Parties acknowledge would create a substantial risk of serious harm such that

1 disclosure could not be avoided by less restrictive means (“Source Code”). For
2 avoidance of doubt, Source Code includes, but is not limited to, source files,
3 “include” files, make files, intermediate output files, executable files, header files,
4 resource files, library files, module definition files, map files, object files, linker
5 files, net lists, circuit schematics, browser info files, debug files, computer code,
6 scripts, assembly, binaries and object code and other human-readable files used in
7 the compilation of Source Code into a software program. The Receiving Party shall
8 not attempt to build or compile the Source Code.

9 2.09 House Counsel: attorneys who are employees of a Party or a related
10 entity. House Counsel does not include Outside Counsel of Record or any other
11 outside counsel.

12 2.10 Non-Party: any natural person, partnership, corporation, association,
13 or other legal entity not named as a Party.

14 2.11 Outside Counsel of Record: attorneys who are not employees of a
15 Party but are retained to represent or advise a Party and have appeared in this
16 action on behalf of that Party or are affiliated with a law firm which has appeared
17 on behalf of that Party.

18 2.12 Party: any party to this action, including all of its officers, directors,
19 employees, consultants, retained experts, and Outside Counsel of Record (and their
20 support staffs).

21 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
22 Discovery Material in this action.

23 2.14 Professional Vendors: persons or entities that provide litigation
24 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
25 demonstrations, and organizing, storing, or retrieving data in any form or medium)
26 and their employees and subcontractors.

27 2.15 Protected Material: any Disclosure or Discovery Material that is
28 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’

1 EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

2 2.16 Receiving Party: a Party that receives Disclosure or Discovery
3 Material from a Producing Party.

4 3. SCOPE

5 The protections conferred by this Order cover not only Protected Material (as
6 defined above), but also (1) any information copied or extracted from Protected
7 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
8 and (3) any testimony, conversations, or presentations by Parties or their Counsel
9 that might reveal Protected Material. However, the protections conferred by this
10 Order do not cover the following information: (a) any information that is in the
11 public domain at the time of disclosure to a Receiving Party, including but not
12 limited to (i) publicly available advertising materials, (ii) materials that have been
13 published to the general public, or (iii) documents that have been submitted to any
14 governmental entity without request for confidential treatment, or that becomes
15 part of the public domain after its disclosure to a Receiving Party as a result of
16 publication not involving a violation of this Order, including becoming part of the
17 public record through trial or otherwise; and (b) any information known to the
18 Receiving Party prior to the disclosure or obtained by the Receiving Party after the
19 disclosure from a source who obtained the information lawfully and under no
20 obligation of confidentiality to the Designating Party. Nothing in this Order shall
21 restrict in any way a Producing Party’s use or disclosure of its own Protected
22 Material. Any use of Protected Material at trial shall be governed by a separate
23 agreement or order.

24 4. DURATION

25 Even after final disposition of this litigation, the confidentiality obligations
26 imposed by this Order shall remain in effect until a Designating Party agrees
27 otherwise in writing or a court order otherwise directs. Final disposition shall be
28 deemed to be the later of (1) dismissal of all claims and defenses in this action,

1 with or without prejudice; and (2) final judgment herein after the completion and
2 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
3 including the time limits for filing any motions or applications for extension of
4 time pursuant to applicable law. The Court will retain jurisdiction over disputes
5 arising from this stipulated protective order for ninety (90) days after final
6 disposition, as defined in the preceding sentence.

7 5. **DESIGNATING PROTECTED MATERIAL**

8 5.1 **Exercise of Restraint and Care in Designating Material for Protection.**
9 Each Party or Non-Party that designates information or items for protection under
10 this Order must take care to limit any such designation to specific material that it
11 reasonably believes there is good cause to protect in accordance with the
12 definitions and provisions of this Order. To the extent it is practical to do so, the
13 Designating Party must designate for protection only those parts of the material,
14 documents, items, or oral or written communications that it reasonably believes
15 qualify for protection. Mass, indiscriminate, or routinized designations are
16 prohibited.

17 If it comes to a Designating Party's attention that information or items that it
18 designated for protection do not qualify for protection at all or do not qualify for
19 the level of protection initially asserted, that Designating Party must promptly
20 notify all other Parties that it is withdrawing the designation.

21 5.2 **Manner and Timing of Designations.** Except as otherwise provided in
22 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
23 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
24 under this Order must be clearly so designated before the material is disclosed or
25 produced.

26 Designation in conformity with this Order requires:

27 (a) **for information in documentary form** (e.g., paper or electronic
28 documents, but excluding transcripts of depositions or other pretrial or trial

1 proceedings), that the Producing Party affix the legend “CONFIDENTIAL,”
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY
3 CONFIDENTIAL – SOURCE CODE” to each page that contains Protected
4 Material. If only a portion or portions of the material on a page qualifies for
5 protection, the Producing Party also must clearly identify the protected portion(s)
6 (e.g., by making appropriate markings in the margins) and must specify, for each
7 portion, the level of protection being asserted.

8 If a Party or Non-Party identifies a set of documents that are better made
9 available for inspection, the Party or Non-Party may make the original documents
10 or materials available for inspection as they are kept in the ordinary course of
11 business. The Party or Non-Party need not designate them for protection until after
12 the inspecting Party has indicated which material it would like copied and
13 produced. During the inspection and before the designation, all of the material
14 made available for inspection shall be deemed “HIGHLY CONFIDENTIAL –
15 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the
16 documents it wants copied and produced, the Producing Party must determine
17 which documents, or portions thereof, qualify for protection under this Order.
18 Then, before producing the specified documents, the Producing Party must affix
19 the appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
20 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE
21 CODE) as required by this Order.

22 (b) for testimony given in deposition or in other pretrial or trial proceedings,
23 that the Designating Party identify on the record at the deposition or within 10 days
24 of the close of the deposition or at a Court hearing, or other Court proceeding, all
25 protected testimony and specify the level of protection being asserted. Unless
26 otherwise agreed in writing or stated on the record at the deposition, deposition
27 proceedings and transcripts shall be considered HIGHLY-CONFIDENTIAL –
28 ATTORNEYS’ EYES ONLY for 10 days after the conclusion of the day of

1 deposition. The parties shall, in good faith, identify unprotected portions of
2 deposition testimony on the record or promptly when requested by another party.
3 When it is impractical to identify separately each portion of testimony that is
4 entitled to protection and it appears that substantial portions of the testimony may
5 qualify for protection, the Designating Party has a right to have up to 30 days from
6 the time the final transcript is available to identify the specific portions of the
7 testimony as to which protection is sought and to specify the level of protection
8 being asserted. Only those portions of the testimony that are designated for
9 protection within the 30 days shall be covered by the provisions of this Protective
10 Order. A Designating Party may specify that the entire transcript shall be treated as
11 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
12 ONLY” subject to review. A Designating Party may also specify that portions of
13 the deposition transcript be identified as containing “HIGHLY CONFIDENTIAL –
14 SOURCE CODE.” In the event that the deposition is videotaped, the original and
15 all copies of the videotape shall be marked by the video technician pursuant to the
16 terms of this Protective Order to indicate that the contents of the videotape are
17 subject to this Protective Order.

18 Parties shall use best efforts to give the other parties notice if they
19 reasonably expect a deposition, hearing, or other proceeding to include Protected
20 Material so that the other parties can ensure that only authorized individuals
21 including those who have signed the “Acknowledgment and Agreement to Be
22 Bound” (Exhibit A) are present at those proceedings. Counsel for the Producing
23 Party shall have the right to exclude from oral depositions—other than the
24 deponent, the deponent’s counsel, the reporter and the videographer (if any)—any
25 person who is not authorized by this Protective Order to receive or access Protected
26 Material based on the designation of such Protected Material. Such right of
27 exclusion shall be applicable only during periods of examination or testimony
28 regarding such Protected Material. The use of a document as an exhibit at a

1 deposition shall not in any way affect its designation as “CONFIDENTIAL” or
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

3 Transcripts containing Protected Material shall have an obvious legend on
4 the title page that the transcript contains Protected Material, and the title page shall
5 be followed by a list of all pages (including line numbers as appropriate) that have
6 been designated as Protected Material and the level of protection being asserted by
7 the Designating Party. The Designating Party shall inform the court reporter of
8 these requirements. Any transcript that is prepared before the expiration of the 30-
9 day period for designation shall be treated during that period as if it had been
10 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its
11 entirety unless otherwise agreed. After the expiration of that period, the transcript
12 shall be treated only as actually designated.

13 (c) for information produced in some form other than documentary and for
14 any other tangible items, that the Producing Party affix in a prominent place on the
15 exterior of the container or containers in which the information or item is stored the
16 legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’
17 EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” If only a
18 portion or portions of the information or item warrant protection, the Producing
19 Party, to the extent practicable, shall identify the protected portion(s) and specify
20 the level of protection being asserted.

21 5.3 Inadvertent Failures to Designate. If corrected in a manner that does
22 not prejudice the receiving party, an inadvertent failure to designate qualified
23 information or items does not, standing alone, waive the Designating Party’s right
24 to secure protection under this Order for such material. Upon timely correction of
25 a designation, the Receiving Party must make reasonable efforts to assure that the
26 material is treated in accordance with the provisions of this Order.

27 5.4 Export Restriction. “EXPORT-CONTROL-RESTRICTED”
28 documents, information, material, and testimony may not be exported, re-exported,

1 temporarily imported, transferred, or retransferred to any non-U.S. person, country,
2 or entity, by any means, without the appropriate approval of the U.S. Department
3 of State, Directorate of Defense Trade Controls (“DDTC”) for International Traffic
4 in Arms Regulations (“ITAR”) Restricted materials, and the U.S. Department of
5 Commerce, Bureau of Industry and Security (“BIS”) for Export Administration
6 Regulations (“EAR”) Restricted materials. These restrictions also apply to United
7 States citizens and permanent residents employed by a company or organization
8 that falls within the definition of “foreign person.” See ITAR, 22 C.F.R. § 120.16.
9 United States persons employed by such a foreign organization or company are not
10 eligible to receive ITAR-controlled information absent an authorization from the
11 DDTC or EAR-controlled information absent an authorization from the BIS.

12 The parties agree to treat all materials designated by another party as
13 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” “HIGHLY
14 CONFIDENTIAL – SOURCE CODE,” or “EXPORT-CONTROL RESTRICTED”
15 as EXPORT-CONTROL-RESTRICTED materials. Absent appropriate
16 authorization (as explained above) or consent from the Producing Party (as
17 explained below), persons (as defined by ITAR § 120.15) with access to documents
18 treated as EXPORT-CONTROL-RESTRICTED shall not transfer, carry, or send
19 such information to a location outside the United States, including via any
20 electronic device or means, nor otherwise share such information with any person
21 not explicitly authorized to receive such information as set forth above.

22 Although materials designated as “HIGHLY CONFIDENTIAL –
23 ATTORNEYS’ EYES ONLY,” “HIGHLY CONFIDENTIAL – SOURCE CODE,”
24 or “EXPORT-CONTROLLED RESTRICTED” by another party will be treated as
25 EXPORT-CONTROL-RESTRICTED by default as a precautionary measure, the
26 parties anticipate that not all such materials are subject to the above federal export
27 restrictions. If the Receiving Party believes any “HIGHLY CONFIDENTIAL –
28 ATTORNEYS’ EYES ONLY,” “HIGHLY CONFIDENTIAL – SOURCE CODE,”

1 or “EXPORT-CONTROL-RESTRICTED” materials are not subject to federal
2 export restrictions and can properly be shared with a foreign national under the
3 other provisions of this Order, the Receiving Party may seek consent of the
4 Producing Party to share the document. Consent shall not be withheld except for
5 good cause shown. The restrictions contained within this paragraph do not create or
6 otherwise impose an obligation on the Receiving Party to verify an individual’s
7 citizenship, who is permitted to have access under Paragraph 7.3 (c), (e) (f) or(g).

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
10 designation of confidentiality at any time. Unless a prompt challenge to a
11 Designating Party’s confidentiality designation is necessary to avoid foreseeable,
12 substantial unfairness, unnecessary economic burdens, or a significant disruption or
13 delay of the litigation, a Party does not waive its right to challenge a confidentiality
14 designation by electing not to mount a challenge promptly after the original
15 designation is disclosed.

16 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
17 resolution process by providing written notice of each designation, with specificity,
18 it is challenging and describing the basis for each challenge. To avoid ambiguity as
19 to whether a challenge has been made, the written notice must recite that the
20 challenge to confidentiality is being made in accordance with this specific
21 paragraph of the Protective Order. The parties shall attempt to resolve each
22 challenge in good faith and must begin the process by conferring directly (in voice-
23 to-voice dialogue; other forms of communication are not sufficient) within 14 days
24 of the date of service of notice. In conferring, the Challenging Party must explain
25 the basis for its belief that the confidentiality designation was not proper and must
26 give the Designating Party an opportunity to review the designated material, to
27 reconsider the circumstances, and, if no change in designation is offered, to explain
28 the basis for the chosen designation. A Challenging Party may proceed to the next

1 stage of the challenge process only if (1) it has engaged in this meet and confer
2 process first, or (2) establishes that the Designating Party is unwilling to participate
3 in the meet and confer process in a timely manner.

4 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
5 court intervention, the Designating Party shall file and serve a motion to retain
6 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule
7 79-5, if applicable) within 21 days of the initial notice of challenge or within 14
8 days of the parties agreeing that the meet and confer process will not resolve their
9 dispute, whichever is later. In addition, the Challenging Party may file a motion
10 challenging a confidentiality designation at any time after complying with the meet
11 and confer requirements imposed in the preceding paragraph, including a challenge
12 to the designation of a deposition transcript or any portions thereof. Any motion
13 brought pursuant to this provision, whether by the Designating Party or
14 Challenging Party, must be accompanied by a competent declaration affirming that
15 the movant has complied with the meet and confer requirements imposed by the
16 preceding paragraph.

17 The burden of persuasion in any such challenge proceeding shall be on the
18 Designating Party. Frivolous challenges and those made for an improper purpose
19 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
20 expose the Challenging Party to sanctions. Unless the Designating Party has
21 waived the confidentiality designation by failing to file a motion to retain
22 confidentiality as described above, all parties shall continue to afford the material
23 in question the level of protection to which it is entitled under the Producing
24 Party's designation until the court rules on the challenge.

25 7. ACCESS TO AND USE OF PROTECTED MATERIAL

26 7.1 Basic Principles. A Receiving Party may use Protected Material that is
27 disclosed or produced by another Party or by a Non-Party in connection with this
28 case only for prosecuting, defending, or attempting to settle this litigation. Such

1 Protected Material may be disclosed only to the categories of persons and under the
2 conditions described in this Order. Nothing in this Order shall bar or otherwise
3 restrict any attorney herein from rendering advice to his or her client with respect to
4 this litigation; provided, however, that in rendering such advice and in otherwise
5 communicating with his client, the attorney shall not make specific disclosure of
6 any information or item of the Protected Material. When the litigation has been
7 terminated, a Receiving Party must comply with the provisions of section 15 below
8 (FINAL DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Order.

12 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

16 (a) the Receiving Party’s Outside Counsel of Record in this action, as
17 well as employees of said Outside Counsel of Record to whom disclosure is
18 reasonably necessary for this litigation;

19 (b) the officers, directors, and employees (including House Counsel)
20 of the Receiving Party to whom disclosure is reasonably necessary for this
21 litigation and who have signed the “Acknowledgment and Agreement to Be
22 Bound” (Exhibit A);

23 (c) Experts (as defined in this Order) of the Receiving Party (1) to
24 whom disclosure is reasonably necessary for this litigation, (2) who have signed
25 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to
26 whom the procedures set forth in paragraph 7.5, below, have been followed;

27 (d) the court and its personnel;

28 (e) court reporters and their staff, professional jury or trial consultants,

1 interpreters or translators, and Professional Vendors to whom disclosure is
2 reasonably necessary for this litigation and who have signed the “Acknowledgment
3 and Agreement to Be Bound” (Exhibit A);

4 (f) during their depositions, witnesses in the action for the Designating
5 Party, the Producing Party, and any party believed, in good faith, to have
6 knowledge about the document;

7 (g) the author or recipient appearing on the face of a document
8 containing the information or a custodian or other person who otherwise possessed
9 or knew the information; and

10 (h) any mediator who is assigned to hear this matter, and his or her
11 staff.

12 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
13 ONLY” Information or Items. Unless otherwise ordered by the court or permitted
14 in writing by the Designating Party, a Receiving Party may disclose any
15 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
16 EYES ONLY” only to:

17 (a) the Receiving Party’s Outside Counsel of Record in this action, as
18 well as employees of said Outside Counsel of Record to whom it is reasonably
19 necessary to disclose the information for this litigation;¹

20 (b) Experts of the Receiving Party (1) to whom disclosure is
21 reasonably necessary for this litigation, (2) who have signed the “Acknowledgment
22 and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set
23 forth in paragraph 7.5, below, have been followed;

24 (c) the court and its personnel;

25 (d) court reporters and their staff, professional jury or trial consultants,

27 ¹ This Order contemplates that House Counsel shall not have access to any information or
28 items designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or
“HIGHLY CONFIDENTIAL – SOURCE CODE.”

interpreters or translators, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(e) during their depositions, witnesses in the action for the Designating Party or the Producing Party (not the Receiving Party), including former employees whom Receiving Party has a good faith belief had access to the information during their employment with the Designating Party or the Producing Party;

(f) the author or recipients appearing on the face of a document containing the information or a custodian or other person who otherwise possessed or knew the information; and

(g) any mediator who is assigned to hear this matter, and his or her staff.

7.4 Disclosure of “HIGHLY CONFIDENTIAL – SOURCE CODE”

Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation;²

(b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.5, below, have been followed;

(c) the court and its personnel;

² This Order contemplates that House Counsel shall not have access to any information or items designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

(d) court reporters and their staff, professional jury or trial consultants, interpreters or translators, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);³

(e) during their depositions, witnesses in the action for the Designating Party or the Producing Party (not the Receiving Party), including former employees whom Receiving Party has a good faith belief had access to the information during their employment with the Designating Party or the Producing Party; and

(f) the author or recipients appearing on the face of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.5 Procedures for Approving or Objecting to Disclosure of “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items to Experts.

(a) Unless otherwise ordered by the Court or agreed to in writing by the Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has been designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to paragraph 7.2, 7.3, or 7.4 first must make a written request to the Designating Party that (1) sets forth the full

³ The procedures set forth in Section 7.5 shall also be followed for the requested disclosure of materials designated as “HIGHLY CONFIDENTIAL – SOURCE CODE” to professional jury or trial consultants, interpreters or translators, and Professional Vendors, with the Receiving Party seeking disclosure making a written request to the Designating Party that sets forth the full name of the relevant individual (including the city and state of his or her primary residence and relevant information regarding professional affiliation/background) or entity to whom disclosure is requested in lieu of the requirements set forth in Section 7.5(a) for Experts. The procedures for objecting and resolution set forth in Sections 7.5(b) and 7.5(c) as to Experts shall apply to professional jury or trial consultants, interpreters or translators, and Professional Vendors.

1 name of the Expert and the city and state of his or her primary residence, (2)
2 attaches a copy of the Expert's current resume and the "Acknowledgement and
3 Agreement to be Bound," (3) identifies the Expert's current employer(s), (4)
4 identifies each person or entity from whom the Expert has received compensation
5 or funding for work in his or her areas of expertise or to whom the expert has
6 provided professional services, including in connection with a litigation, at any
7 time during the preceding five years,⁴ and (5) identifies (by name and number of
8 the case, filing date, and location of court) any litigation in connection with which
9 the Expert has offered expert testimony, including through a declaration, report, or
10 testimony at a deposition or trial, during the preceding five years.

11 (b) A Party that makes a request and provides the information
12 specified in the preceding respective paragraphs may disclose the subject Protected
13 Material to the identified Expert unless, within 7 days of delivering the request, the
14 Party receives a written objection from the Designating Party. Any such objection
15 must set forth in detail the grounds on which it is based.

16 (c) A Party that receives a timely written objection must meet and
17 confer with the Designating Party (through direct voice to voice dialogue) to try to
18 resolve the matter by agreement within seven days of the written objection. If no
19 agreement is reached, the Party seeking to make the disclosure to the Expert may
20 file a motion as provided in Civil Local Rule 7 (and in compliance with Civil Local
21 Rule 79-5, if applicable) seeking permission from the court to do so. Any such
22 motion must describe the circumstances with specificity, set forth in detail the
23 reasons why disclosure to the Expert is reasonably necessary, assess the risk of
24 harm that the disclosure would entail, and suggest any additional means that could

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⁴ If the Expert believes any of this information is subject to a confidentiality obligation
to a Non-Party, then the Expert should provide whatever information the Expert
believes can be disclosed without violating any confidentiality agreements, and the
Party seeking to disclose to the Expert shall be available to meet and confer with the
Designating Party regarding any such engagement.

1 be used to reduce that risk. In addition, any such motion must be accompanied by a
2 competent declaration describing the parties' efforts to resolve the matter by
3 agreement (i.e., the extent and the content of the meet and confer discussions) and
4 setting forth the reasons advanced by the Designating Party for its refusal to
5 approve the disclosure.

6 In any such proceeding, the Party opposing disclosure to the Expert
7 shall bear the burden of proving that the risk of harm that the disclosure would
8 entail (under the safeguards proposed) outweighs the Receiving Party's need to
9 disclose the Protected Material to its Expert.

10 8. **PROSECUTION BAR**

11 Absent written consent from the Producing Party, any individual who
12 receives access to "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
13 or "HIGHLY CONFIDENTIAL – SOURCE CODE" information shall not be
14 involved in the prosecution of patents or patent applications relating to the subject
15 matter of this action, including without limitation the patents asserted in this action
16 and any patent or application claiming priority to or otherwise related to the patents
17 asserted in this action, before any foreign or domestic agency, including the United
18 States Patent and Trademark Office ("the Patent Office"). For purposes of this
19 paragraph, "prosecution" includes directly or indirectly drafting or amending patent
20 claims. To avoid any doubt, "prosecution" does not include representing a party
21 during a post-issuance proceeding before a domestic or foreign agency (including,
22 but not limited to, a reissue, *ex parte* reexamination or *inter partes* reexamination)
23 so long as the individual does not participate in any way in drafting or amending
24 patent claims. For the sake of clarity, the preceding sentence includes advising,
25 counseling or any other input into drafting and amending claims. "Prosecution"
26 also does not include representing a petitioner in a post-issuance proceeding before
27 a domestic or foreign agency. This Prosecution Bar shall begin when a person has
28 accessed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or

1 “HIGHLY CONFIDENTIAL – SOURCE CODE” information and shall end one
2 (1) year after final termination of this action, including final resolution of any
3 appeals or after the time to appeal has expired without an appeal having been filed.

4 9. SOURCE CODE

5 (a) To the extent production of source code becomes necessary
6 in this case, a Producing Party may designate source code as “HIGHLY
7 CONFIDENTIAL – SOURCE CODE” if it comprises or includes confidential,
8 proprietary or trade secret source code.

9 (b) Protected Material designated as “HIGHLY CONFIDENTIAL
10 – SOURCE CODE” shall be subject to all of the protections afforded to
11 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information,
12 including the Prosecution Bar set forth in Paragraph 8, and may be disclosed only
13 to the individuals to whom “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
14 ONLY” information may be disclosed, as set forth in Paragraph 7.3.

15 (c) Any Source Code produced in discovery shall be made
16 available for inspection as it is kept in the ordinary course of business
17 (including but not limited to in native form and in the file-naming and directory
18 structure in which it is ordinarily kept), in a format allowing it to be reasonably
19 reviewed and searched, during normal business hours (or at other mutually
20 agreeable times), at an office of the Producing Party’s counsel or another
21 mutually agreed upon location, or, in the case of Non-Party Source Code, at a
22 location designated by the Non-Party. Upon initial inspection, the Receiving
23 Party shall give at least ten (10) days prior written notice of its intent to review
24 Source Code. Written notices of subsequent inspections shall be made at least
25 three (3) business days prior to the intended start of the review. The Source Code
26 shall be made available for inspection in a secured room (“Source Code Room”)
27 on a secured computer without Internet access or network access to other
28 computers (“Source Code Computer”), and the Receiving Party shall not copy,

1 remove, or otherwise transfer any portion of the Source Code onto any recordable
2 media or recordable device. The Producing Party may designate a person to
3 periodically visually monitor the activities of the Receiving Party's
4 representatives during any source code review, but only to ensure that there is no
5 unauthorized recording, copying, or transmission of the source code. The
6 inspection may not be monitored using mechanical, software or electronic
7 means, including video cameras, still cameras or keyloggers. The use of any laptop
8 computer with a camera, input/output device, recordable media, or recordable
9 device (*e.g.*, USB memory stick, CDs, portable hard drives, cameras
10 (including cellular phones with camera functionality), sound recorders, etc.) is
11 prohibited while accessing the Protected Code Computer, and no such devices or
12 media shall be permitted in the Source Code Room.

13 The Source Code Computer shall include software utilities that
14 provide the ability to (a) view, search, and identify the line number of any source
15 file, (b) search for a given pattern of text through multiple files, and (c)
16 compare two files. Acceptable software utilities for source code include
17 Notepad++ and Eclipse. Default Windows programs such as Notepad are not
18 sufficient. Schematics shall be produced using the software used by the
19 Producing Party to access the schematics during the normal course of business.
20 In addition to these tools, the Receiving Party may request that commercially
21 available software tools for reviewing and searching Source Code be installed on
22 the Source Code Computer, provided, however, that (a) the Receiving Party
23 possesses any appropriate license to such software tools which may be transferred
24 to the Producing Party for the purposes of the inspection, or reimburses the
25 Producing Party for the costs to obtain a license to such software tools; (b)
26 the Producing Party approves such software tools (such approval shall not be
27 unreasonably withheld); (c) the Receiving Party provides the Producing Party with
28 written justification as to why such other software tools are reasonably necessary

1 for the Receiving Party to perform its review of the Source Code consistent with
2 all of the protections herein; and (d) the request to install the software tools is
3 made at least five (5) business days in advance of the date upon which the
4 Receiving Party wishes to have the additional software tools available for use on
5 the Source Code Computer. To the extent only the Receiving Party possesses or
6 has access to the software tools, the Receiving Party must provide the Producing
7 Party with the licensed software tool(s) at least five (5) business days in advance of
8 the date upon which the Receiving Party wishes to have the additional software
9 tools available for use on the Source Code Computer if the Producing Party
10 does not object to such installation. If the Producing Party objects to a software
11 tool requested by the Receiving Party, it shall, within five (5) business days of
12 receiving the Receiving Party's request, initiate the dispute resolution process set
13 forth in Paragraph 6. For emphasis, it should be noted that Source Code review
14 tools may not be used to circumvent the protections of this Protective Order in
15 any way. The electronic Source Code shall be produced in a manner that
16 preserves filenames and directory structures. The Receiving Party's Outside
17 Counsel of Record and/or Experts shall be entitled to take notes relating to the
18 Source Code, including on a laptop computer without a camera, but may not copy
19 the Source Code into their notes. Any notes relating to the Source Code shall be
20 subject to all of the restrictions of the "HIGHLY CONFIDENTIAL – SOURCE
21 CODE" designation. The inadvertent leaving of materials in the Source Code
22 Room does not operate as a waiver of the attorney work product doctrine or any
23 other applicable privilege and such materials shall be returned to their owner
24 promptly. No copies of all or any portion of the Source Code may leave the
25 Source Code Room except as otherwise provided in this Protective Order. Further,
26 no other written or electronic record of the Source Code is permitted except as
27 otherwise provided in this Protective Order.

28 (d) During or after a Source Code inspection, the Receiving Party may

1 request that the Producing Party print specified portions of the Source Code that are
2 reasonably necessary for the preparation of court filings, pleadings, expert reports,
3 or other papers, or for deposition or trial, but shall not request paper copies for the
4 purpose of reviewing the Source Code other than electronically as set forth in
5 paragraph (c) in the first instance. Should the Producing Party believe the requested
6 number or content of the printouts is excessive, the parties shall meet and confer
7 regarding the request. If the concerns cannot be resolved, the Producing Party shall
8 file for a protective order within ten (10) business days of raising its objection.

9 Unless it objects to the request, within three (3) business days of
10 receiving a request for paper copies of Source Code from the Receiving Party, the
11 Producing Party shall provide the requested portions of Source Code in paper form
12 to the Receiving Party, with bates numbers and the label “HIGHLY
13 CONFIDENTIAL – SOURCE CODE.” If the Producing Party objects to the
14 amount of Source Code requested by the Receiving Party in paper form, it shall,
15 within three (3) business days of receiving the Receiving Party’s request, initiate
16 the dispute resolution process set forth in Paragraph 6.

17 (e) The Receiving Party shall maintain a record of the address where
18 each paper copy of the Source Code is kept or moved and the name of each person
19 with access to each paper copy of the Source Code at the provided address. The
20 Receiving Party shall further maintain a record indicating any individual who has
21 inspected any portion of the Source Code in electronic or paper form. The
22 Receiving Party shall maintain all paper copies of any printed portions of the
23 Source Code in a secured, locked area when not in immediate use. In addition, the
24 Receiving Party may ship paper copies of printed portions of the Source Code via a
25 secure courier delivery service, signature required (e.g. Federal Express) to persons
26 authorized to access same under this Protective Order, who shall also maintain all
27 paper copies of any printed portions of the Source Code in a secured, locked area
28 when not in immediate use. The Receiving Party shall not create any electronic or

1 other images of the paper copies and shall not convert any of the information
 2 contained in the paper copies into any electronic format, except small excerpts
 3 thereof reasonably necessary for court filings, expert reports, discovery responses
 4 and other similar documents. All such documents shall be clearly marked
 5 “HIGHLY CONFIDENTIAL – SOURCE CODE” and, if filed, shall be filed under
 6 seal. The Receiving Party shall only make additional paper copies if such
 7 additional copies are (1) necessary to prepare court filings, pleadings, or other
 8 papers (including expert reports), (2) necessary for deposition, or (3) otherwise
 9 necessary for the preparation of its case. Any paper copies used during a deposition
 10 shall be retrieved by the Producing Party at the end of each day and must not be
 11 given to or left with a court reporter or any other unauthorized individual.

12 PROTECTED MATERIAL SUBPOENAED OR ORDERED
 13 PRODUCED IN OTHER LITIGATION

14 If a Party is served with a subpoena or a court order issued in other litigation
 15 that compels disclosure of any information or items designated in this action as
 16 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 17 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE,” that Party must:

18 (a) promptly notify in writing the Designating Party. Such notification
 19 shall include a copy of the subpoena or court order;

20 (b) promptly notify in writing the party who caused the subpoena or
 21 order to issue in the other litigation that some or all of the material covered by the
 22 subpoena or order is subject to this Protective Order. Such notification shall include
 23 a copy of this Protective Order; and

24 (c) cooperate with respect to all reasonable procedures sought to be
 25 pursued by the Designating Party whose Protected Material may be affected.⁵ If the
 26 Designating Party timely seeks a protective order, the Party served with the

27
 28 ⁵ The purpose of imposing these duties is to alert the interested parties to the existence of
 this Protective Order and to afford the Designating Party in this case an opportunity to try
 to protect its confidentiality interests in the court from which the subpoena or order issued.

1 subpoena or court order shall not produce any information designated in this action
2 as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
3 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a
4 determination by the court from which the subpoena or order issued, unless the
5 Party has obtained the Designating Party’s permission. The Designating Party shall
6 bear the burden and expense of seeking protection in that court of its confidential
7 material – and nothing in these provisions should be construed as authorizing or
8 encouraging a Receiving Party in this action to disobey a lawful directive from
9 another court.

10 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
11 PRODUCED IN THIS LITIGATION

12 (a) The terms of this Order are applicable to information produced by
13 a Non-Party in this action and designated as “CONFIDENTIAL,” “HIGHLY
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY
15 CONFIDENTIAL – SOURCE CODE.” Such information produced by Non-Parties
16 in connection with this litigation is protected by the remedies and relief provided by
17 this Order. Nothing in these provisions should be construed as prohibiting a Non-
18 Party from seeking additional protections.

19 (b) In the event that a Party is required, by a valid discovery request,
20 to produce a Non-Party’s confidential information in its possession, and the Party
21 is subject to an agreement with the Non-Party not to produce the Non-Party’s
22 confidential information, then the Party shall:

23 1. promptly notify in writing the Requesting Party and
24 the Non-Party that some or all of the information requested is subject to a
25 confidentiality agreement with a Non-Party;

26 2. promptly provide the Non-Party with a copy of the
27 Protective Order in this litigation, the relevant discovery request(s), and a
28 reasonably specific description of the information requested; and

3. make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court.⁶ Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
PROTECTED MATERIAL

13.1 Inadvertent or unintentional production of “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” documents or information without such

⁶ The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect its confidentiality interests in this court.

1 designations shall not be deemed a waiver in whole or in part of a claim for
2 treatment as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’
3 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” If, through
4 inadvertence, a Producing Party provides any information pursuant to this litigation
5 without marking the information as “CONFIDENTIAL,” “HIGHLY
6 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY
7 CONFIDENTIAL – SOURCE CODE” the Producing Party may subsequently
8 inform the Receiving Party of the specific designation of the disclosed information,
9 and the Receiving Party shall treat the disclosed information as
10 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
11 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” information upon
12 receipt of written notice from the Producing Party. To the extent the Receiving
13 Party has already disclosed such information, the Receiving Party shall use its best
14 efforts to promptly collect any copies of disclosed material that have been provided
15 to individuals other than those authorized under this Protective Order, and if
16 collected, shall destroy or return them to the Producing Party.

17 13.2 An inadvertent failure to designate does not relieve a recipient of
18 obligations under ITAR and EAR. Furthermore, ITAR and EAR contain additional
19 provisions relating to the disclosure of any actual or suspected infractions
20 regarding “EXPORT-CONTROL-RESTRICTED” documents and things.⁷ Any
21 party aware of actual or suspected violations of ITAR and/or EAR will
22 immediately inform, and await further instructions from, the Producing Party.

23 13.2 If a Producing Party inadvertently produces a document, tangible item
24 or electronically stored information that it later discovers or in good faith asserts to
25 be privileged, protected by the work product doctrine, or subject to some other
26 immunity from disclosure (“Privileged Material”) the production of that Privileged

27 _____
28 ⁷ See, e.g., ITAR, 22 C.F.R. § 127.12; EAR, 15 C.F.R. §§ 730-44.

1 Material shall not be deemed to constitute a waiver of any applicable privileges,
2 work product protection, or immunity from disclosure. In such circumstances, upon
3 discovery of the inadvertent disclosure, the Producing Party shall immediately
4 notify the Receiving Party of the inadvertent production, and request either the
5 return or confirmation of destruction of the Privileged Materials. Within five (5)
6 business days of receiving such notification, the Receiving Party shall return or
7 confirm destruction of all such materials. Such return or confirmation of
8 destruction shall not preclude the Receiving Party from seeking to compel
9 production of the materials (based on information independent of the content of the
10 returned, allegedly privileged materials in question) and shall not constitute an
11 admission by the Receiving Party that the materials were, in fact, privileged or
12 otherwise protected in any way. The Producing Party shall retain the Privileged
13 Material for submission to the Court in the event the Receiving Party moves to
14 compel.

15 14. MISCELLANEOUS

16 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
17 person to seek its modification by the court in the future.

18 14.2 Right to Assert Other Objections. No Party waives any right it
19 otherwise would have to object to disclosing or producing any information or item
20 on any ground not addressed in this Protective Order. Similarly, no Party waives
21 any right to object on any ground to use in evidence of any of the material covered
22 by this Protective Order.

23 14.3 Filing Protected Material. Without written permission from the
24 Designating Party or a court order secured after appropriate notice to all interested
25 persons, a Party may not file in the public record in this action any Protected
26 Material. In order to be treated as confidential, any materials filed with the Court
27 must be lodged with a request for filing under seal in compliance with Civil Local
28 Rule 79-5.

15. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Outside Counsel of Record need not purge its document management system or backup tapes to eliminate Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

SO STIPULATED:

DATED: October 17, 2023

RUSS, AUGUST & KABAT

By: /s/Paul A. Kroeger

Brian D. Ledahl

Paul A. Kroeger

*Attorney For Plaintiff Longitude
Licensing Limited*

1 DATED: October 11, 2023

HAYNES AND BOONE, LLP

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IT IS SO ORDERED.

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By: /s/*David B. Clark*

Kenneth G. Parker

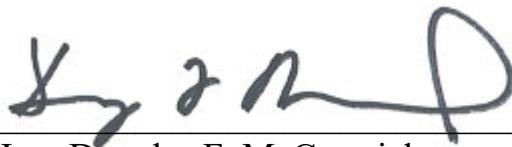
David B. Clark

Andrea Levenson

Nicolette Nunez

Attorneys for Intervenor

Western Digital Technologies, Inc.



Hon. Douglas F. McCormick
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of _____ **[insert formal name of the case and the number and initials assigned to it by the court]**. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed:

Printed name:

Signature: